



RECORDATION NO. 6042-C Filed 1425

RECORDATION NO. 6041-F Filed 1425

JAN 6 1986 :3 25 PM

JAN 6 1986 :3 25 PM

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

January 6, 1986

RECORDATION NO. 6042-D Filed 1425

JAN 6 1986 :3 25 PM

INTERSTATE COMMERCE COMMISSION

No. 1 JAN 6 1986
Date
Fee \$...10.00.....

Washington, D. C.

Secretary
Interstate Commerce Commission
12th & Constitution Avenue
Washington, DC 20423

6-006A114

RECORDATION NO. 6041-A Filed 1425

JAN 6 1986 :3 25 PM

INTERSTATE COMMERCE COMMISSION

Dear Secretary:

I have enclosed an original and one copy of the documents listed on the attachment that are to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

As indicated, these documents are amendment agreements to an equipment lease and a conditional sale agreement to terminate said lease and to prepay conditional sale debt.

We request that the agreements be cross-indexed.

The names and addresses of the parties to each document as well as recordation numbers under which the primary document is recorded are shown on the attachment.

A fee of \$10.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to my attention.

Very truly yours,

Richard I. Klein
Assistant Treasurer

RIK/ch
Enclosures

~~484 7540~~
383 3000

Stephen J. Thompson
Carolyn [unclear]

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RECEIVED
DEC 26 2 52 PM '68
I.C.C.
FEE OPERATING
INTERSTATE COMMERCE COMMISSION
LEASE AGREEMENT

THIS LEASE AGREEMENT, entered into this 25th day of November, 1968, by and between Muncie Leasing Corp., an Indiana corporation with its principal office and place of business located at 2724 North Broadway, Muncie, Delaware County, Indiana, hereinafter called "Lessor", and Marhoefer Packing Company, Inc., an Indiana corporation with its principal office and place of business located at 13th and North Elm Streets, Muncie, Delaware County, Indiana, hereinafter called "Lessee".

The parties, for and in consideration of the mutual promises hereinafter set forth, hereby agree as follows:

Lease Term

1. Lessor hereby agrees to lease to Lessee the following described railroad equipment for a term of eight (8) years beginning on January 1, 1969, and ending on December 31, 1976, or as sooner terminated in accordance herewith, upon the terms and conditions set forth in this Lease Agreement with delivery of said railroad equipment to be made to Lessee by Lessor and possession to be taken by Lessee from Lessor on November 25, 1968:

<u>Description</u>	<u>Quantity</u>	<u>Car Numbers</u>
Double Deck Stock Cars of 100-ton nominal capacity	Four (4)	MPKX 121668 MPKX 121669 MPKX 121670 and MPKX 121671

Rental
Payments

2. (a) Lessee agrees to pay to the Lessor as rental for the use of the equipment leased hereunder equal monthly rental payments, as herein provided, during each month of the ~~period of this lease.~~ Monthly rental payments shall be paid in full on the first business day of January, 1969, and the first business day of each month thereafter in the amount of One Thousand Two Hundred Seventy Four Dollars (\$1,274.00) plus interest at one-half (1/2) per cent over the prime, floating interest rate as established by any assignee hereof as permitted by ~~paragraph 2(a), infra.~~

License,
Tax, etc.

(b) Fees paid by Lessor for any initial State and local license fees, and for any federal, state or local taxes, not included elsewhere shall be separately billed to Lessee by Lessor at time of delivery of such equipment or as subsequently assessed.

Investment
Credit

(c) Any investment credit that the Lessor is entitled to will be passed to the Lessee.

Assignment

3. (a) Lessee agrees that Lessor, in order to provide necessary funds for financing initial purchase of said equipment, subject to the following conditions, may assign all right, title and interest of Lessor in and to this Lease Agreement, the equipment leased herein, and all lease-rental payments due or to become due to Lessor hereunder. Lessee further agrees in the event of such assignment so provides to pay directly to such Assignee all monies due or to become due under this Lease Agreement provided, however, that Lessor will not assign this Lease Agreement and any assignee will not accept such an assignment without first obtaining the approval from Lessee of such proposed assignment and provided further that any such assignment shall expressly be made subject to all the terms and conditions hereof. Any such assignment shall also provide that any further assignment thereof shall expressly be made subject to all the terms of this Lease Agreement and of such initial assignment.

(b) It is expressly understood and agreed that anything in this Lease Agreement to the contrary notwithstanding all rental payments due or to become due to Lessor or to any assignee to which Lessor assigns this Lease Agreement hereunder shall be computed and paid in accordance with the provisions of Paragraph two (2) without any right of set-off, counterclaim or abatement of rent in Lessee.

Lease
Expiration

4. (a) Upon expiration or other termination of this Lease Agreement, Lessee shall retire and deliver to Lessor possession of the equipment covered by this Lease Agreement. Lessor shall sell said equipment for the best obtainable price by Lessor. Delivery by Lessee to Lessor shall be made to Muncie, Indiana, or to any point mutually agreed upon between Lessee and Lessor. If the leased equipment is not sold, then independent appraisals shall be made to determine the value of the equipment at the expiration date of this Lease Agreement.

Disposition
of Equipment

(b) Upon sale of said retired equipment by Lessor, or appraisal value determined as aforesaid, Lessor agrees to dispose of the proceeds thereof on the following basis:

Disposition
of Proceeds

(1) Lessor shall deduct from said proceeds Transportation or reconditioning costs (if any) incurred by it to obtain the maximum sales price.

(2) If there remains a balance of said proceeds of sale after deductions are made pursuant to paragraph 4 (b) (1) above, then Lessor agrees to pay to Lessee an amount equal to fifty percent (50%) of such remaining balance, retaining fifty per cent (50%) thereof to itself. If Lessee prefers to purchase the equipment, Lessee may do so on the basis of fifty percent (50%) of the appraised value as established by paragraph 4 (a) above with a maximum amount of Seven Thousand Three Hundred Eighteen Dollars (\$7,318.00).

Extended
Lease
Payments

5. (a) This Lease Agreement may be extended on a year to year or month to month basis under the following terms:

(1) With respect to the equipment as to which the lease term shall have been extended and provided that Lessee shall have paid all rental installments due during the entire term of the original Lease, Lessee shall pay as rental during such extended term the sum of four percent (4%) of the rental payments paid for the use of said equipment during the original term.

Responsi-
bility for
Maintenance,
Taxes,
Insurance,
etc.

6. (a) Lessor shall have no responsibility for the maintenance and upkeep of this equipment leased hereunder after it is delivered to and accepted by Lessee and until such time as the equipment may be turned back to Lessor as provided hereunder. Manufacturers' Warranty shall be furnished with this equipment. Lessor shall not be responsible for any charges under such Warranty. However, Lessor will fully cooperate with Lessee in procuring from factory or dealer, the repairs, replacement or adjustments due under this Warranty. During the lease period, Lessee shall maintain, service and keep in good repair this equipment at its own expense, but shall not be responsible for normal wear, tear, or depreciation. Lessee agrees to pay during the term of this Lease Agreement, and with respect to the equipment leased thereunder, all Federal, State or local sales, use and personal property taxes and other taxes then in effect or subsequently assessed against Lessor or Lessee. Lessee agrees that the equipment returned to the Lessor by Lessee shall be in an operating condition, without accident damage and in generally good condition excepting normal wear and tear. Lessee shall be responsible for the benefit of the Lessor and Lessee for public liability, property damage and claims arising from the operation of such equipment, and agrees to file any statement of such responsibility as may be required by law. Lessee agrees to furnish evidence of adequate public liability and property

damage insurance whenever Lessor is required or other authority to which Lessor is obligated to produce same. All risk of loss or damage to this equipment during such time of lease shall be borne by Lessee. In the event the equipment is damaged, its repair shall be the responsibility and obligation of Lessee. In every instance, Lessor agrees to assign to Lessee any and all rights Lessor may have under insurance policies carried pursuant hereto with respect to such damage, as well as any rights Lessor may have to be reimbursed for such damages pursuant to insurance coverage carried by others, or otherwise, including the right of Lessee to prosecute legal proceedings therefor in the name of Lessor.

Indemnity
of Lessor

(b) Lessee hereby assumes all liability for, and agrees to save Lessor harmless against, all loss imposed by law resulting from its use or operation, during the term of Lease hereunder, of the equipment leased hereunder, and arising out of bodily injuries to any person or persons and/or damage to property belonging to any person or persons. Lessee agrees to defend at its own expense all claims or suits for damages for the causes hereinbefore set forth, and to pay all costs thereof.

(c) In the event the leased equipment is destroyed, stolen or damaged to the extent of "Total Loss", all Lessor's right, title and interest in the equipment, together with any and all rights it may have with respect to such equipment under insurance carried pursuant hereto, as well as any and all rights under insurance carried by others, or otherwise, shall be assigned to Lessee upon payment by Lessee of the remaining unpaid rental payments on such equipment, (adjusted to reflect any interest reductions as computed by Assignee plus any interest which shall have accrued following the last rental payment

by Lessee.) "Total Loss" shall be deemed to mean when the equipment or any part of it is damaged to the extent that the probable sales price thereof, if reconditioned, would not equal the cost of such reconditioning.

Usage

7. Lessee may use the equipment leased hereunder at any and all times for any and all legal purposes.

Use of Leased Equipment

8. (a) It is agreed that title to the equipment leased hereunder shall remain in Lessor during the term of its lease, and that Lessor shall have no control or supervision of the operation of any equipment leased hereunder, and that nothing herein contained shall authorize Lessee or any person to operate the equipment or to incur any liability or obligation upon behalf of the Lessor.

Lessor's Warranty

(b) As to the equipment to be leased, Lessor warrants that it is sole and absolute owner thereof, - that it has the right to lease the equipment to Lessee, - that Lessor will keep the equipment free of all liens and encumbrances, except those required by an assignee of this Lease Agreement, - that it will not sell, assign, lease or otherwise dispose of the equipment except as provided in Paragraph 4 above - and that it will do nothing to disturb Lessee's full right of possession and enjoyment of the equipment, and the exercise of all Lessee's rights thereof, - as provided by this Lease Agreement.

Default by Lessor

9. It is understood and agreed that in the event Lessor's interest in the equipment leased hereunder shall be levied upon, or taken in execution or subjected to other encumbrances because Lessor becomes insolvent or bankrupt or makes an assignment for benefit of creditors or consents to the appointment of a trustee or a receiver, or a trustee or receiver

is appointed for Lessor or a substantial part of its property without its consent, and such last mentioned trustee or receiver is not discharged within thirty (30) days, or if bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings are instituted by or against Lessor, and if instituted against Lessor remains undismissed for thirty (30) days, then, and in any such event, Lessee shall have the right, by written notice to Lessor, to forthwith terminate this Lease Agreement, by purchasing all equipment lease hereunder upon payment of the remaining unpaid rental payments (adjusted to reflect any interest reductions as computed by the Assignee plus any interest which shall have accrued following the last rental payment by Lessee). In any such event, Lessor and Assignee, or either of them, shall execute such bills of sale, assignments or other documents as may be required to transfer to Lessee all right, title and interest in and to any and all such equipment so purchased.

10. Lessee shall have the right, at all reasonable times to examine and inspect Lessor's books and records for the purpose of determining the elements of costs which make up the "Base Price", and sales or settlement prices, and losses following the sale of the equipment pursuant to Paragraph 4 hereof, - and any other sales by Lessor which may be agreed to in connection with the equipment leased hereunder.

11. Neither party hereto shall assign this Lease Agreement, except as provided in Paragraph 3 (a), without the written consent of the other party.

12. This Lease Agreement shall remain in full force and effect for a period of eight (8) years from January 1, 1969, and thereafter from year to year, or month to month, provided, however, that either party may terminate this Lease Agreement by giving notice in writing to the other of its

Examination
of Lessor's
Books

Assignment

Cancellation

Legal
Notices


intention to so terminate not less than sixty (60) days prior to the end of the period extended beyond the eight (8) year term.

13. All written notices and written requests provided for herein shall be sent by mail addressed in the case of Lessor to Muncie Leasing Corp., 2724 North Broadway, Muncie, Indiana, and in the case of Lessee to 13th and North Elm Street, Muncie, Indiana.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Agreement to be duly executed and delivered on the day and year first above written.

(CORPORATE SEAL)

ATTEST:


Henry M. Fink
(Henry M. Fink)

Secretary

MUNCIE LEASING CORP.

BY

Jacob R. Marhoefer
(Jacob R. Marhoefer)

Vice-President

LESSOR

(CORPORATE SEAL)

ATTEST:

Richard Creagmille
(Richard Creagmille)

Secretary

MARHOEFER PACKING COMPANY, INC.

BY

John Hartmeyer
(John Hartmeyer)

Chairman of the Board

STATE OF INDIANA)
) SS:
DELAWARE COUNTY)

On this 20th day of December, 1968, before me personally appeared Jacob R. Marhoefer and Henry M. Fink, to me personally known, who being by me duly sworn, say that they are the Vice-President and Secretary, respectively, of Muncie Leasing Corp., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

WITNESS my hand and notarial seal.

My commission expires
My commission expires Jan. 2, 1972

Anne Luttall

NOTARY PUBLIC

STATE OF INDIANA)
) SS:
DELAWARE COUNTY)

On this 20th day of December, 1968, before me personally appeared John Hartmeyer and Richard Creagmile, to me personally known, who being by me duly sworn, say that they are the Chairman of the Board and Secretary, respectively, of Marhoefer Packing Company, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

WITNESS my hand and notarial seal.

My commission expires
My commission expires Jan. 2, 1972

Anne Luttall

NOTARY PUBLIC

This instrument was prepared by William F. Radcliff of Bracken, DeFur, Voran & Hanley, Attorneys at Law, 320 South High Street, Muncie, Indiana 47305.

ASSIGNMENT OF LEASE AGREEMENT

For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency of which hereby are acknowledged, and as collateral security for that certain promissory note of even date herewith in favor of The Merchants National Bank of Muncie in the principal sum of One Hundred Twenty-two Thousand Two Hundred Seventy and 68/100 Dollars (\$122,270.68), the undersigned, Muncie Leasing Corp., an Indiana corporation with its principal office and place of business located at 2724 North Broadway, Muncie, Delaware County, Indiana, hereby sells, assigns, transfers and sets over to The Merchants National Bank of Muncie, a national banking association with its principal office and place of business located at 122 South Mulberry Street, Muncie, Delaware County, Indiana, all of its right, title and interest in and to that certain Lease Agreement by and between the undersigned, as Lessor, and Marhoefer Packing Company, Inc., an Indiana corporation, with its principal office and place of business located at 13th and North Elm Street, Muncie, Delaware County, Indiana, as Lessee, dated November 25, 1968, and in and to the railroad equipment therein described with authority on the part of said bank to take either in its own name or in the name of the undersigned but for its own benefit all proceedings, legal or equitable, as the undersigned might have taken but for this assignment. This assignment expressly is made subject to all of the terms and conditions of said Lease Agreement. Said Assignee, The Merchants National Bank of Muncie, agrees that any subsequent assignment by it will be made expressly subject to all of the terms of this Lease Agreement and of this initial assignment. The undersigned hereby directs said Lessee, Marhoefer Packing Company, Inc., to make all payments due or to become due under the provisions of said Lease Agreement directly to The Merchants National Bank of Muncie.

The undersigned hereby warrants that said Lease Agreement represents a valid lease-rental agreement for the term and for the amounts therein set forth of a bona fide lessee as therein described having legal capacity to enter into the same; that such Lease Agreement and all accompanying agreements and other documents are genuine in all respects and are what they respectively purport to be; that all statements of facts within the knowledge of the undersigned therein contained are true; that at the time of execution of such Lease Agreement the undersigned had good title to such railroad equipment and the right to lease the same; and that the undersigned has no knowledge of any facts which impair the validity of said Lease Agreement. The undersigned waives all demands and notice of default by Lessee in said Lease Agreement and consents that without notice to the undersigned The Merchants National Bank of Muncie may extend time to or compound or release, by operation of law or otherwise, any rights against the Lessee or any other obligor.


The Merchants National Bank of Muncie shall not be bound to take any steps necessary to preserve any rights in the within Lease Agreement or any accompanying agreements or documents against prior parties which the undersigned hereby assumes to do.

The undersigned agrees that if any warranty herein contained proves to have been false when made or if there occurs an event of default under the assigned lease agreement, the undersigned, upon demand of The Merchants National Bank of Muncie at its election shall accept a reassignment of the Lease Agreement and shall pay at such time the amount then due under the aforesaid promissory note.

Dated at Muncie, Indiana, this 20th day of December, 1968.

(CORPORATE SEAL)

ATTEST:


Henry M. Fink
(Henry M. Fink)

SECRETARY

MUNCIE LEASING CORP.

BY

Jacob R. Marhoefer
(Jacob R. Marhoefer)

VICE-PRESIDENT

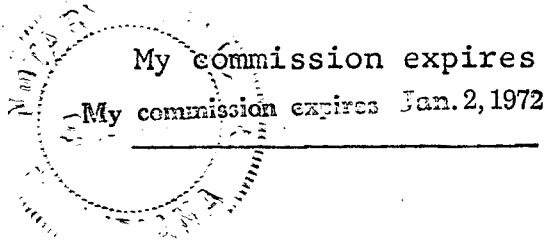
STATE OF INDIANA)
) SS:
DELAWARE COUNTY)

On this 20th day of December, 1968, before me personally appeared Jacob R. Marhoefer and Henry M. Fink, to me personally known, who being by me duly sworn, say that they are the Vice-President and Secretary, respectively, of Muncie Leasing Corp., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

WITNESS my hand and notarial seal.

Anne Littell

NOTARY PUBLIC



This instrument was prepared by William F. Radcliff of Bracken, DeFur, Voran & Hanley, Attorneys at Law, 320 South High Street, Muncie, Indiana 47305

APPROVAL OF ASSIGNMENT AND AGREEMENT TO
MAKE PAYMENTS DIRECTLY TO ASSIGNEE

The undersigned, Marhoefer Packing Company, Inc., an Indiana corporation with its principal office and place of business located at 13th and North Elm Streets, Muncie, Delaware County, Indiana, as Lessee in that certain Lease Agreement by and between Muncie Leasing Corp., an Indiana corporation, as Lessor, and the undersigned as Lessee, dated November 25, 1968, hereby approves of the above and foregoing assignment of said Lease Agreement and hereby agrees to make all lease-rental payments due or to become due under the provisions of said Lease Agreement directly to The Merchants National Bank of Muncie, a national banking association, 122 South Mulberry Street, Muncie, Delaware County, Indiana.

Dated at Muncie, Indiana, this 20TH day of December, 1968.

(CORPORATE SEAL)

MARHOEFER PACKING COMPANY, INC.

ATTEST:

Richard Creagmile
(Richard Creagmile)

BY John Hartmeyer
(John Hartmeyer)

Chairman of the Board

Secretary

STATE OF INDIANA)
) SS:
DELAWARE COUNTY)

On this 20th day of December, 1968, before me personally appeared John Hartmeyer and Richard Creagmile to me personally known, who being by me duly sworn, say that they are the Chairman of the Board and Secretary, respectively, of Marhoefer Packing Company, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and they acknowledge that the execution of the foregoing instrument was the free act and deed of said corporation.

WITNESS my hand and notarial seal.

My commission expires

My commission expires Jan. 2, 1972

Anne Luttrell

NOTARY PUBLIC

This instrument was prepared by William F. Radcliff of Bracken, DeFur, Voran & Hanley, Attorneys at Law, 320 South High Street, Muncie, Indiana 47305.